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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/703,349	10/31/2000	Don Rutledge Day	AUS920000683US1	3064

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EXAMINER

MAURO JR, THOMAS J

ART UNIT

PAPER NUMBER

2143

DATE MAILED: 10/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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**Office Action Summary**

Application No.

09/703,349

Applicant(s)

DAY ET AL.

Examiner

Thomas J. Mauro Jr.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 October 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 October 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. Claims 1-7 are pending and have been examined.

#### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-5 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,522,333 to Hatlelid et al. (hereinafter Hatlelid) in view of Applicant's Admitted Prior Art (hereinafter AAPA).

Regarding claim 1, Hatlelid teaches the invention substantially as claimed, a method for interacting between participants through a network of computers, comprising: automatically generating a command to a software program enabling real time communication (**Hatlelid -- Col. 5 line 45**) between the participants to send a representation of the actual gesture within the real time communication (**Hatlelid -- Col. 18 lines 40-62 -- Upon recognition of a triggering event, the software system automatically alters the representation of the animated figure to represent the gesture or emotion that was recognized**). Hatlelid fails to teach this automatic generation based upon analyzing successive video images received as input from a camera

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capturing video of at least one of the participants for an actual physical gesture made by the one participant.

AAPA, however, teaches software that analyzes successive video images received as input from a camera capturing video of at least one of the participants for an actual physical gesture made by the one participant (**AAPA -- Page 13 lines 3-20 – The software analyzes video captured from a video camera to determine specific movement and gestures**).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the method for analyzing video images from a video camera to determine movements and gestures as taught by AAPA into the invention of Hatlelid in order to allow communication over a network which provides easier, more accurate and more realistic ways to convey behavioral information providing a context within which the communication can be interpreted.

Regarding claim 2, Hatlelid in view of AAPA teach the invention substantially as claimed, the method comprising: analyzing successive video images received as input from a camera capturing video of at least one of the participants for an actual physical gesture made by the one participant (**AAPA -- Page 13 lines 3-20 – The software analyzes video captured from a video camera to determine specific movement and gestures**); determining a state of the actual physical gesture made by the one participant (**Hatlelid -- Col. 17 lines 44-49 – The weighting, contained within a rule, is a numerical number indicating the propensity, which informs the system how often or how many times to perform a given behavior movement**); accessing a table for an action associated with the determined state of the actual physical gesture

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**(Hatlelid -- Figure 10c, 12a and Col. 18 lines 45-47 -- Correlates the behavioral movement which is associated or linked to the corresponding gesture ID); and automatically generating a command for the action to a software program enabling real time communication (Hatlelid -- Col. 5 line 45) between the participants thereby sending a representation of the actual gesture within the real time communication (Hatlelid -- Col. 18 lines 40-62 -- Upon recognition of a triggering event, the software system automatically alters the representation of the animated figure to represent the gesture or emotion that was recognized).**

Regarding claim 3, Hatlelid in view of AAPA teach the invention substantially, the method comprising: analyzing images of at least one of the participants received as input for an actual physical gesture (AAPA -- Page 13 lines 3-20 -- **The software analyzes video captured from a video camera to determine specific movement and gestures**); associating each of a plurality of gestures to separate commands of an application program interface for communicating in real time between the participants (**Hatlelid -- Figure 10c, 12a and Col. 18 lines 45-47 -- Correlates the behavioral movement commands with it's associated gesture ID**); and transmitting an associated command to the application program interface for communicating between the participants (**Hatlelid -- Col. 18 lines 40-62 -- Upon recognition of a triggering event, the software system automatically alters the representation of the animated figure to represent the gesture or emotion that was recognized**).

Regarding claims 4 and 5, these are system claims corresponding to the method claimed in claims 1 and 2. They have similar limitations; therefore, claims 4 and 5 are rejected under the same rationale.

Regarding claim 7, Hatlelid in view of AAPA teach the invention substantially as claimed, a computer program (**Hatlelid -- Col. 4 lines 58-59 -- Application module, i.e. program**), on a computer readable medium (**Hatlelid -- Claim 35 Col. 29 line 43**), having computer readable program code means for enabling an interaction between participants through a network of computers (**Hatlelid -- Col. 29 lines 43-46 -- Instructions, i.e. code, cause the processor to carry out the instructed communications program**). The remaining limitations in the claim are similar to the limitations of claim 1 rejected above. Therefore, they are rejected under the same rationale.

4. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hatlelid in view of AAPA as applied to claims 1-5 above, and further in view of U.S. Patent No. 6,038,493 to Tow.

Regarding claim 6, Hatlelid in view of AAPA does not explicitly teach the invention as claimed. Tow, however, teaches the invention substantially as claimed, wherein the associative mapping is a table (**Tow -- Col. 7 lines 43-45 -- Emotions and their associated behaviors are mapped in tables**).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to use a table as taught by Tow in the invention of Hatlelid in order to provide a well-

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known means of providing an associative mapping to link together behavioral movements with their proper gesture ID(s).

***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent No. 6,453,294 to Dutta et al. teaches a method for providing interactive on-line communication using avatars.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas J. Mauro Jr. whose telephone number is 703-605-1234. The examiner can normally be reached on M-F 8:00a.m. - 4:30p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on 703-308-5221. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.


Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.



Thomas J. Mauro Jr.  
Examiner  
Art Unit 2143



TJM  
September 22, 2003



DAVID WILEY  
SUPERVISORY PATENT EXAMINER  
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